

Anthony S. Petru, Esq., Cal. Bar No. 91399
HILDEBRAND, McLEOD & NELSON LLP
Westlake Building
350 Frank H. Ogawa Plaza, Fourth Floor
Oakland, CA 94612-2006
Telephone: (510) 451-6732
Facsimile: (510) 465-7023
E-mail Address: petru@hmnlaw.com

Paul S. Bovarnick, OSB 791654
ROSE, SENDERS AND BOVARNICK, LLC
1205 NW 25th Avenue
Portland, OR 97210
Telephone: (503) 227-2486
Facsimile: (503) 877-1768
E-mail Address: pbovarnick@rsblaw.net

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA
OMAHA DIVISION

LARRY KEATLEY, an individual, VIRGIL
RASK, an individual, and MATTHEW
LINDLEY an individual,

Plaintiffs,

v.

UNION PACIFIC RAILROAD COMPANY,
a corporation,

Defendants.

Case No.

COMPLAINT
FEDERAL EMPLOYERS LIABILITY
ACT (45 USC §51)

JURY TRIAL DEMAND

Plaintiff Larry Keatley, by and through his attorneys, Paul S. Bovarnick and Kay Teague, and Plaintiffs Virgil Rask and Matthew Lindley, by and through their attorneys, Anthony Petru and (herein after “Plaintiffs”), and for their Complaint against Defendant Union Pacific Railroad Company hereby allege:

1.

Jurisdiction is conferred on this court by 45 USC §56, for their claims.

2.

Venue is within the District of Nebraska pursuant to 28 USC §1391(b) as the Defendant’s principal offices and headquarters are in Omaha, Nebraska.

3.

At all material times, Defendant Union Pacific Railroad Company was, and is, a common carrier by railroad in interstate commerce.

4.

At all material times, Plaintiff Larry Keatley was employed by Defendant as a locomotive engineer, Plaintiff Virgil Rask was employed by Defendant as a conductor, and Plaintiff Matthew Lindley was employed by Defendant as a conductor.

5.

On or about July 15, 2021, the track on which Plaintiffs’ train was operating was washed out by a flash flood, causing their train to derail. Plaintiffs were injured in the derailment.

6.

Plaintiffs’ injuries were due to the negligence of the Defendant in failing to provide Plaintiffs with safe tools and equipment and a safe place to work, in one or more of the following particulars:

- a. Defendant failed to warn Plaintiffs that flooding was imminent so that they could take measures to avoid the derailment;
- b. Defendant placed the track in a location which it knew or should have known was subject to flooding and thus derailments; and
- c. Defendant failed to warn Plaintiffs that the track where the derailment occurred was at risk for flooding and derailment.

7.

As a result of the negligence of the Defendant each Plaintiff suffered physical and emotional injuries. As a further result of the negligence of the Defendant, Plaintiffs suffered and will continue to suffer impaired earning capacity, pain and worry. Plaintiffs have also lost, and will continue to lose, wages and benefits and have incurred and will continue to incur medical expenses.

WHEREFORE, Plaintiff prays for the following relief:

For judgment against Defendant for economic and non-economic damages in an amount to be determined at trial and for their costs and disbursements incurred herein.

DATED: December 1, 2021.

Hildebrand, McLeod, and Nelson, LLP
Anthony S. Petru, Partner

By: s/ Anthony S. Petru
Anthony S. Petru, Cal. State Bar No.:
Telephone: (510) 451-6732
petru@hmnlaw.com

Attorneys for Plaintiffs
Virgil Rask and Matthew Lindley

And

Paul S. Bovarnick, Of Counsel
Rose, Senders and Bovarnick, LLC

By: s/ Paul S. Bovarnick
Paul S. Bovarnick, OSB No. 791654
Telephone: (503) 227-2486
pbovarnick@rsblaw.net

DEMAND FOR TRIAL BY JURY

COME NOW plaintiffs LARRY KEATLEY, VIRGIL RASK, and MATTHEW LINDLEY, by and through their attorneys, and hereby demand a trial by jury on all factual issues triable.

DATED: December 1, 2021

Anthony S. Petru, Partner
Hildebrand, McLeod, and Nelson, LLP

By: s/ Anthony S. Petru
Anthony S. Petru, Cal. State Bar No.:
Telephone: (510) 451-6732
petru@hmnlaw.com

AND

Paul S. Bovarnick, Of Counsel
Rose, Senders and Bovarnick, LLC

By: s/ Paul S. Bovarnick
Paul S. Bovarnick, OSB No. 791654
Telephone: (503) 227-2486
pbovarnick@rsblaw.net

Attorneys for Plaintiffs